

REMARKS

Claims 1-49 stand rejected.

OBJECTIONS TO SPECIFICATION

The specification stands objected to for typographical errors on page 3, lines 19 and 31. Applicant is amending the specification to correct these errors and thanks the Examiner for bringing these errors to his attention.

OBJECTION TO THE CLAIMS

Claims 4, 10, 19, 26, 39 and 43 stand objected to for use of the acronym "HAART" without first identifying it by its complete title.

Applicant is canceling claims 4, 10, 26 and 39 and adding the complete title for "HAART" in the claims.

Reconsideration and withdrawal of this ground of objection are urged.

Claim 23 stands objected to under 37 CFR §1.75(c) as being of improper dependent form.

Applicant is amending this application to cancel claim 23.

Reconsideration and withdrawal of this ground of objection are urged.

CLAIM REJECTIONS UNDER 35 USC § 112

Claims 22, 23 and 24 stand rejected under 35 USC §112 second paragraph as being indefinite.

Applicant is canceling claims 22, 23 and 24 without prejudice to filing a continuation application directed to the subject matter.

Reconsideration and withdrawal of this ground of rejection are urged.

Claims 25 – 36 and claims 29 and 31 stand rejected under 35 USC § 112, second paragraph, for being indefinite.

Applicant is amending claims 25-36 to specify that the patient who discontinued the HAART experienced an increase in HIV-RNA plasma levels.

Applicant is also amending claim 28 to incorporate claims 29-31.

Basis for this amending is found in the specification, for example, on page 1, lines 15-20, and page 3, lines 9 to page 4, line 13.

Reconsideration and withdrawal of these grounds of rejection are urged.

CLAIMS REJECTIONS UNDER 35 USC § 102

Claims 1, 5 and 6 stand rejected under 35 USC § 102(b) as being anticipated by Testa, et al., U.S. Patent No. 5,676,947 and under 35 USC § 102(a) as being anticipated by Alber, et al., U.S. Patent No. 5,920,636.

Applicant is amending this application to cancel claims 1, 5 and 6.

Reconsideration and withdrawal of this ground of rejection are urged.

Claims 1, 5, 6, 7, 11-17 and 41-49 stand rejected as being anticipated by Ganguly, et al., U.S. Patent No. 6,277,830.

Applicant is amending this application to cancel claims 1, 5, 6 and 11-17.

Ganguly, et al. discloses at col. 8, lines 20-26 treating patients co-infected with HIV-1 and HCV infection with the combination of pegylated interferon alfa and certain 5-amino acid esters of ribavirin and an appropriate HAART combination.

Applicant is amending claims 41-49 to specify that the HIV-1 patient is one who has discontinued HAART and experience increased HIV-RNA plasma levels.

As amended, the disclosure of Ganguly, et al., to treat with HAART does not anticipate claims 41-49.

Reconsideration and withdrawal of this ground of rejection are urged.

Claims 1-49 stand rejected under 35 USC § 102(f) over the claims of co-pending, commonly-owned U.S. Patent Application Publication No. US 202/0182179. Applicant disagrees. Applicant is canceling claim 1-24, 26, 29-31, 37-40 and amending claims 25, 27 and 28, 32-36 and 41-49 to specify that the HIV-1 patient is one who has discontinued HAART and experienced an increase in HIV-1-RNA plasma levels.

No where in US 2002/0182179 is there a disclosure of treating such a HIV-1 patient population.

Reconsideration and withdrawal of this ground of rejection are urged.

CLAIM REJECTIONS UNDER 35 USC § 103

Claims 7 and 11-17 stand rejected under 35 USC §103(a) as being unpatentable over Gilbert, et al. U.S. Patent No. 6,042,822 in view of the teachings of Testa or Alber as applied to claims 1, 5 and 6.

Applicant is amending this application to cancel claims 7 and 11-17.

Reconsideration and withdrawal of this ground of rejection are urged.

Claims 41, 42, 44 and 45-49 stand rejected under 35 USC §103(a) as being unpatentable over either Alber as applied to claims 1, 5 and 6 above, or Weiner, et al. U.S. Patent No. 5,780,220 further in view of Gilbert.

Applicant disagrees.

Applicant is amending claims 41-49 to specify that the HIV-1 patient to be treated is one who has discontinued HAART and experienced an increase in HIV-RNA plasma levels.

As the Examiner has pointed out, neither Weiner, nor Alber teaches pegylation of interferon alfa much less treating the specific HIV-1 patient population of claims 41-49 as amended.

None of the deficiencies of Weiner or Alber, et al. regarding the HIV-1 patient population are not cured by Gilbert.

None of Weiner, Alber, et al. or Gilber, alone or in combination, teach or suggest treating the specific HIV-1 patient population of claims 41-49 as amended to promote HIV-1 specific T-cell activity.

Reconsideration and withdrawal of this ground of rejection are urged.

Claims 1-4, 6, 7-10, 12-24 and 25-40 stand rejected under 35 USC § 103(a) as being unpatentable over Gilber in view of Vandamme, et al. further in view of Kalams and Alber.

Applicant is amending this application to cancel claims 1-24, 26, 29-31 and 37-40 and amending claims 25, 27 and 28 and 32-36 to specify that the HIV-1 patient to be treated is one who has discontinued HAART and experienced an increase in HIV-RNA plasma levels.

None of these references alone or in combination teach treating this specific HIV-1 patient population.

Kalams only discusses option during HAART treatment.

Vandamme on page 193 only discloses that "one the viral load is undetectable, alternative strategies could be used to target specifically these long-living infected cells. Cytokines or other immune stimulation could be used to activate the resting T cells. . ." (emphasis added)

Clearly, Vandamme only teaches or suggests treating HIV-1 patients whose HIV-RNA viral loads are "undetectable". Thus, Vandamme teaches away from Applicant's claimed invention which, as amended, is directed to treating HIV-1 patients who have discontinued HAART and have increased (i.e. detectable) HIV-RNA plasmic levels.

For reasons stated herein above, none of the deficiencies of Vandamme are cured by Gilbert, Kalams, et al. or Alber.

Reconsideration and withdrawal of this ground of rejection are urged.

DOUBLE PATENTING REJECTION

Claims 1-49 stand rejected under the judicially-created doctrine of obviousness double patenting as being unpatentable over claims 9, 11-14, 25, 26, 49-57, 60-65 and 68-72 of commonly owned, co-pending U.S. Patent Appln. Serial No. 09/516,673, filed March 1, 2000.

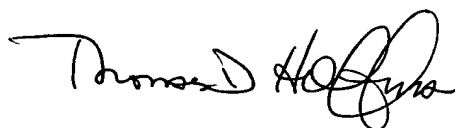
Applicant is submitting herewith a terminal disclaimer in compliance with 37 CFR §1.32(c) with respect to U.S. Serial No. 09/516,673.

Reconsideration and withdrawal of this ground of rejection are urged.

Applicant asserts that as amended the claims are in condition for allowance.

If the undersigned can be of any assistance in advancing prosecution, please contact him.

Respectfully submitted,



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